

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT F. URBANO,  
Plaintiff

v.

AQUA INVESTMENTS, LLC  
and ITS PRINCIPALS,  
Defendants

CIVIL ACTION  
DOCKET NO. 05 CV 11480 MLW

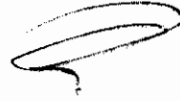
**DEFENDANT'S MOTION TO STRIKE**  
**PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS**

Now comes Aqua Investments, LCC, Defendant in the above-entitled action, and moves this Honorable Court to Strike Plaintiff's Motion for Judgment on the Pleadings. As grounds therefore, Defendant states the following:

1. On July 19, 2005, Defendant was served with Plaintiff's Motion for Judgment on the Pleadings under Mass.R.Civ.P. 12(c).
2. In that motion, Plaintiff states that there are no genuine issues of material fact in dispute in the above-entitled action and that all facts in this case are "uncontroverted". Plaintiff's motion also states several conclusions of law.
3. On July 11, 2005, Defendant served Plaintiff an answer which denied the allegations in the Plaintiff's complaint.
4. When considering a 12(c) motion, the Court may take the movant's allegations as true "only if specifically admitted by the adversary." See Liberty Mutual Ins. Co. v. United States, 490 F. Supp. 328, 329 n.1 (E.D.N.Y. 1980) See also Burlington v. District Attorney for the N. Dist., 381 Mass. 717 (1980).
5. Because in this case, the Defendant specifically denies all of the Plaintiff's allegations, the Court cannot take the Plaintiff's allegations as true and must therefore strike the Plaintiff's Motion and allow discovery to proceed.

WHEREFORE, the Defendant respectfully asks this Honorable Court to Strike Plaintiff's Motion for Judgment on the Pleadings and to grant the Defendant any other relief that is appropriate.

Respectfully submitted,



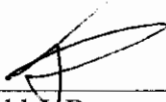
Todd J. Bennett, Esq.  
Attorney for Aqua Investments. LLC  
Corrigan, Bennett & Belfort, P.C.  
404 Main Street, Suite 1  
Wilmington, MA 01887  
(978) 988-1544  
BBO# 643185

Dated: July 27, 2005

**Certificate of Service**

I hereby certify that a true copy of the above document has been served this date by U.S. mail on this 27 day of July, 2005, upon the following party:

Robert F. Urbano, Pro Se  
PO Box 164  
Rockport, MA 01966



Todd J. Bennett, Esq.